

**All Terrain Vehicles; Advance Notice of Proposed Rulemaking;
Request for Comments and Information**

LATE COMMENTS

CH 06-1-122	12/13/05	Janell Duncan	Consumers Union
CH 06-1-123	12/13/05	Annamarie Daley Counsel for	Arctic Cat Inc.
		Yves St Arnaud Counsel for	Bombardier Recreational Products
		Mary McConnell Counsel for	Polaris Industries Inc.
CH 06-1-124	12/13/05	Paula Yuma	Paula.Yuma@childrens.com
CH 06-1-125	12/10/05	Susan Reynolds Exec. Director	Progressive Agriculture Foundation P.O. Box 530425 Birmingham, AL 35253
CH 06-1-126	12/12/05	Doug Morris	843 Ellis St. Pickerington, OH 43147
CH 06-1-127	12/13/05	W. Prunella	10911 Wickshire Way Rockville, MD 20852
CH 06-1-128	11/30/05	T. Vitaglione Co Chair	NC Child Fatality Task Force 1928 Mail Service Center Raleigh, NC 27699
CH 06-1-129	12/01/05	David Mooney MD	Children's Hospital Boston 300 Longwood Ave. Boston, MS 02115
CH 06-1-130	12/01/05	James Graham MD	University of Arkansas 800 Marshall St. Slot 512-16 Little Rock, AR 72202
CH 06-1-131	12/01/05	Staff (10)	Children's Healthcare of Atlanta 1001 Johnson Ferry Rd, NE Atlanta, GA 30342
CH 06-1-132	12/02/05	Joseph Wright Medical Dir.	Children's National Medical Center 111 Michigan Ave, NW Washington, DC 20010
CH 06-1-133	12/07/05	R.Pettignano	3837 Peachtree Dunwoody Rd, NE Atlanta, GA 30342

**All Terrain Vehicles; Advance Notice of Proposed Rulemaking;
Request for Comments and Information**

LATE COMMENTS CON'T

CH 06-1-134	11/09/05	Jim Helmkamp Director	West Virginia University Injury Control Research Center P.O. Box 9151 Morgantown, WV 26506
CH 06-1-134a	11/29/05	Jim Helmkamp	Address same as above
CH 06-1-135	11/18/05	B. Rodgers	University of Virginia P.O. Box 800709 Charlottesville, VA 22908
CH 06-1-136	12/09/05	Sharon Pahlman	Maryland Cooperative Extension US Dept of Agriculture University of Maryland College Park, MD 20742
CH 06-1-137	12/13/05	Distributors Of ATVs (8)	Willkie Farr & Gallagher 1875 K St, NW Washington, DC 20006
		Counsel for American Honda Motor Co, Inc	Michael A. Brown Brown & Gidding 3201 New Mexico Ave, NW Suite 242 Washington, DC 20016
		Counsel for American Suzuki Motor Corp.	John B. Walsh American Suzuki Motor Corporation 3251 Imperial Highway Brea, CA 92821
		Counsel for Arctic Cat Inc.	Annamarie Daley Robins, Kaplan, Miller & Ciresi LLP 2800 LaSalle Plaza 800 LaSalle Avenue Minneapolis, MN 55402
		Counsel for Bombardier Recreational Products	Yves St. Arnaud Bombardier Recreational Products 1061 Parent Street Saint-Bruno, Quebec J3V 6P1 Canada
		Counsel for Deere & Co.	Deborah J. Morrison Deere & Company One John Deere Place Moline, IL 61265

**All Terrain Vehicles; Advance Notice of Proposed Rulemaking;
Request for Comments and Information**

LATE COMMENTS Con't

Counsel for Kawasaki Motors Corp. USA	Michael A. Wiegard Eckert Seamans Cherin & Mellot 1250 24 th St, NW Suite 700 Washington, DC 20037
Counsel for Polaris Industries	Mary McConnell Polaris Industries Inc. 2100 Highway 55 Medina, MN 55340
Counsel for Yamaha Motor Corp. USA	David P. Murray Willkie Farr & Gallagher 1875 K St, NW Washington, DC 20006

N.C. Child Fatality Task Force

1928 Mail Service Center • Raleigh, NC 27699-1928 • phone: 919-707-5626 • fax: 919-870-4882

Co-Chairs: Jennifer Tolle Whiteside, Tom Vitaglione

Executive Director: Selena Berrier

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ATV
Consumer
Safety
Rec'd 05
12/30/05

November 30, 2005

Secretary Todd A. Stevenson
U.S. Consumer Product Safety Commission
Washington, DC 20207-0001

Regarding: ANPR for ATVs

Dear Secretary Stevenson:

The North Carolina Child Fatality Task Force welcomes the opportunity to offer recommendations for inclusion in the Consumer Product Safety Commission's proposed rulemaking process regarding all-terrain vehicles.

The Task Force, a legislative study commission charged with making recommendations to prevent child deaths, has recently supported passage of a state law introducing for the first time a comprehensive array of ATV safety requirements. Legislators agreed to the law because the annual number of ATV-related deaths had doubled in the past five years. The annual number of such deaths in children less than 16 had also doubled. Serious ATV-related injuries have also been increasing exponentially. With the increasing popularity of these machines, there were dire expectations of ever-increasing deaths and injuries.

Our law is based on the model developed by the Specialty Vehicle Institute of America, with the exception of the minimum age for operation of an ATV. (The Task Force proposed age 12; this was compromised to age 8 in the law.) We are grateful for the consultation of the Institute during the legislative process.

Our law is largely educational, and we are relying on adults not only to be role models in the safe operation of ATVs, but also to be supervisors of children and youth. The Institute is providing us with materials to assist in our safety awareness campaigns, for which once again we are grateful. However, individual manufacturers, and especially those not part of the 1988 consent agreement, are stepping up their advertising campaigns, which stress the "exciting fun" of these machines without referencing the need for safety precautions, nor the need to restrict children to smaller machines.

Given the opportunity to make recommendations for inclusion in the proposed rulemaking process, we are recommending that the CPSC, to the fullest extent of its jurisdiction:

1. Prohibit the sale or rental of ATVs for use by anyone less than 12 years of age. We realize that there is considerable interest in age 16 as the minimum age, and the Task Force would not be adverse to age 16. However, the consensus of the Task Force was age 12. Parenthetically, this consensus was based largely on the



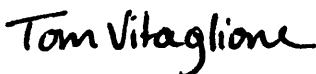
Our Children, Our Future, Our RESPONSIBILITY

CPSC study report which concluded that children less than age 12 do not have the developmental skills to operate an ATV safely.

2. Require the purchaser or renter of an ATV to show proof that the primary rider of the machine possesses a helmet and eye protection that meets federal standards. In addition, the purchaser or renter should be required to sign a statement that no person will be allowed to operate the ATV without an approved helmet and eye protection.
3. Require the purchaser or renter of an ATV to sign a statement that no person younger than age 16 will be allowed to operate an ATV with engine displacement greater than 90cc, nor will a person younger than age 12 be allowed to operate an ATV with engine displacement greater than 69cc.
4. Require the purchaser or renter of an ATV to sign a statement that no person less than age 16 will be allowed to operate the machine without having successfully completed an ATV safety course sponsored by the ATV Safety Institute (or its equivalent).
5. Require mandatory disclosure of death and injury data regarding ATVs, especially as related to children under age 16, to any prospective buyer or renter of a machine. Disclosure should be done orally and in writing, and a signature on the disclosure document should be required from the purchaser or renter. There should be serious penalties for failure to comply with mandatory disclosure statements.
6. Require an industry-funded national campaign to raise ATV safety awareness, including the risks of death and injury. In addition, require that all print, broadcast, and internet sales and marketing materials from all manufacturers, dealers, rental agencies and trade organizations include disclosure of safety risks, especially emphasizing the heightened risks to children less than age 16. Font size and bolding of such disclosures should be comparable to all other language in the ad copy.

Thank you for the opportunity to provide recommendations on this matter of critical importance. North Carolina's parents and policy makers are looking to the CPSC for guidance in the reduction of deaths and serious injuries related to ATVs. We look forward to reviewing your proposed rules in this regard.

Sincerely,



Tom Vitaglione

Co-Chair,

NC Child Fatality Task Force



Children's Hospital Boston

Department of Surgery
Director Trauma Program



HARVARD MEDICAL SCHOOL

Department of Surgery
Assistant Professor of Surgery

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David P. Mooney, M.D.

Pediatric Surgery | General | Thoracic | Neonatal

Children's Hospital Boston
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The Honorable Hal Stratton

Chairman

U.S. Consumer Product Safety Commission

Washington, D.C. 20207-0001

Dear Chairman Stratton:

As a pediatrician, I would like to take this opportunity to comment on the Advance Notice of Proposed Rulemaking on All-Terrain Vehicles (ATVs) that appeared in the *Federal Register* on October 6, 2005.

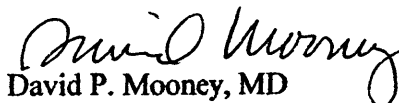
ATVs are highly dangerous to children. Between 1982 and 2004, over 2,000 children under age 16 were killed in ATV crashes. Injuries sustained by children riding ATVs are often very serious, including severe brain, spinal, abdominal, and orthopedic injuries. Children simply lack the judgment, coordination, and strength to operate these powerful vehicles, just as they do not have the skills needed to safely operate a car.

As the federal agency with jurisdiction over these products, the CPSC must take strong action and lead the nation in efforts to reduce ATV deaths and injuries. The ineffectiveness of past CPSC actions in protecting children is demonstrated by the steady rise in deaths and injuries related to ATV use every year. **I echo the longstanding recommendation of the American Academy of Pediatrics that children under 16 not be allowed to operate ATVs of any size.** Failing that, the CPSC could protect children by:

- prohibiting the sale of adult-size ATVs for use by children under age 16;
- requiring all ATVs to be sold with a helmet; and
- discouraging efforts to develop a new generation of ATVs for older children, the so-called "transitional ATV," which would be larger, faster and more powerful than those currently marketed for children.

In conclusion, I urge the CPSC to place substantial restrictions on children operating ATVs. If no further action occurs this year, we can expect that next year over 130 children will die and over 40,000 will be injured seriously enough on ATVs to need treatment in the emergency department. We can and must do better. With decisive action on ATVs, the CPSC can save children's lives and preserve their health.

Sincerely,


David P. Mooney, MD

RV
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UAMS



COLLEGE OF MEDICINE
DEPARTMENT OF PEDIATRICS

UNIVERSITY OF ARKANSAS FOR MEDICAL SCIENCES



Emergency Medicine Section
Arkansas Children's Hospital

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Kristin Lyle, M.D.
Instructor

Robert Williams, M.D.
Fellow

The Honorable Hal Stratton
Chairman
U.S. Consumer Product Safety Commission
Washington, D.C. 20207-0001

Dear Chairman Stratton:

I am writing to comment on the Advance Notice of Proposed Rulemaking on All-Terrain Vehicles (ATVs) that appeared in the *Federal Register* on October 6, 2005.

As a pediatric emergency physician, I have treated many children and adolescents who have been injured on ATVs. I know from my practice and my research that ATVs are very dangerous to children and adolescents. Between 1982 and 2004, over 2,000 children under age 16 were killed in ATV crashes. Injuries associated with ATVs in children are often quite serious. I have personally cared for a number of children who required admission to the hospital, surgery, and intensive care due to ATV injury.

As the federal agency with jurisdiction over these products, I believe that it is time for the CPSC to take strong action to reduce the epidemic of ATV deaths and injuries in children. **I agree with the longstanding recommendation of the American Academy of Pediatrics that children under 16 not be allowed to operate ATVs of any size and would encourage the CPSC to adopt such a standard.** Failing that, the CPSC could protect children by:

- prohibiting the sale of adult-size ATVs for use by children under age 16;
- requiring all ATVs to be sold with a helmet; and
- discouraging efforts to develop a new generation of ATVs for older children, the so-called "transitional ATV," which would be larger, faster and more powerful than those currently marketed for children.

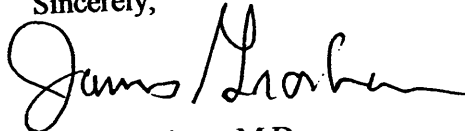
In general, the CPSC should pursue a multi-pronged approach of banning the sale of ATVs for children, educating retailers and consumers, engaging in meaningful enforcement, and requiring engineering and design changes that will improve ATV safety.

—ESTABLISHED 1879—

Arkansas Children's Hospital is the comprehensive clinical, research, & teaching affiliate of the College of Medicine at the University of Arkansas for Medical Sciences. UAMS pediatric faculty physicians and surgeons are on the staff at Arkansas Children's Hospital.

In conclusion, I urge the CPSC to take action now and place substantial restrictions on children operating ATVs. If the CPSC fails to act, we can expect that next year over 130 children will die and over 40,000 will be injured seriously enough on ATVs to need treatment in the emergency department. I am on the front lines caring for these children. I urge the Commission to take action now!

Sincerely,

A handwritten signature in black ink, appearing to read "James Graham". The signature is fluid and cursive, with a large initial "J" and "G".

James Graham, M.D.
Professor of Pediatrics
Chief, Pediatric Emergency Medicine

December 1, 2005

Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, DC 20207

RE: ANPR for ATV's

Dear Secretary Stevenson,

As licensed social workers in the pediatric healthcare setting our priority is the health and safety of children. It is therefore with a growing sense of alarm that we write in reference to the increasing numbers of All-Terrain Vehicle (ATV) injuries and deaths among our pediatric population. We urge the Consumer Product Safety Commission to enact stricter regulations in regard to the use of ATV's by children 16 and under. The statistics provided by the SPSC and American Academy of Pediatricians paint a grim picture:

- Over 3,300 children killed or seriously injured per month nationally

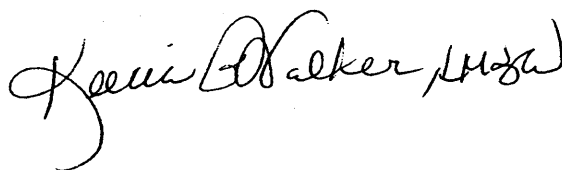
In addition, data from our hospital system (Children's Healthcare of Atlanta) shows:

- 205 admissions related to ATV injuries during 2003-2004
- 6 of these children died as a result of their injuries
- 103 of the 205 injured children sustained injuries to the head and neck

Statistics alone cannot begin to capture the emotional impact of a child's severely disabling injury or death that could have been prevented; unfortunately we regularly witness the grief and devastation of these tragedies first hand in the hospital setting.

Thank you for the opportunity to share our concerns with you; it is our hope that through stronger legislation fewer children and families will be affected by what we see as an easily preventable tragedy.

Respectfully submitted,



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Children's
Healthcare of Atlanta

1001 Johnson Ferry Rd NE
Atlanta, Georgia 30342
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AP/bo

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111 Michigan Avenue, N.W.
Washington, DC 20010-2970
(202) 884-5000

December 2, 2005

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-0001

To the Office of the Secretary:

On behalf of Children's National Medical Center (CNMC), I am submitting comments on the Consumer Product Safety Commission's (CPSC) Advance Notice of Proposed Rulemaking concerning all-terrain vehicles (ATV's). I am the Medical Director of Advocacy and Community Affairs at CNMC and have also practiced pediatric emergency medicine for 15 years at CNMC. I thank you for your attention to reducing the number of ATV-related deaths and injuries and offer CNMC's assistance, particularly medical assistance, as you progress with this issue.

CNMC is a 279-bed pediatric inpatient facility that has provided care to children in the greater Washington area for more than 130 years. CNMC has experienced an increase in the number treated trauma injuries resulting from ATV use in Maryland. Because CNMC's Level I Pediatric Trauma Facility is one of only two such facilities that serves the children of Maryland, CNMC is often the first place where families bring children who have been seriously injured in ATV-related injuries.

CNMC stands ready to serve as you continue to examine the safety of ATV's. Please let me know if I can provide any assistance.

Sincerely,

Joseph Wright, MD, MPH
Medical Director, Advocacy and Community Affairs
Children's National Medical Center

ATV
late 13

Robert Pettignano, MD, FAAP, FCCM, MBA
3837 Peachtree Dunwoody Rd NE
Atlanta, GA 30342

December 7, 2005

The Honorable Hal Stratton
Chairman
U.S. Consumer Product Safety Commission
Washington, D.C. 20207-0001

Dear Chairman Stratton:

As a pediatric critical care practitioner, I would like to take this opportunity to comment on the Advance Notice of Proposed Rulemaking on All-Terrain Vehicles (ATVs) that appeared in the Federal Register on October 6, 2005.

ATVs are highly dangerous to children. Between 1982 and 2004, over 2,000 children under age 16 were killed in ATV crashes. Injuries sustained by children riding ATVs are often very serious, including severe brain, spinal, abdominal, and orthopedic injuries. Children simply lack the judgment, coordination, and strength to operate these powerful vehicles, just as they do not have the skills needed to safely operate a car. I have seen far too many children who have sustained life threatening and life ending injuries related to ATV's in our intensive care unit. If the children are our future, then something must be done to protect them.

As the federal agency with jurisdiction over these products, the CPSC must take strong action and lead the nation in efforts to reduce ATV deaths and injuries. The ineffectiveness of past CPSC actions in protecting children is demonstrated by the steady rise in deaths and injuries related to ATV use every year. I echo the longstanding recommendation of the American Academy of Pediatrics that children under 16 not be allowed to operate ATVs of any size. Failing that, the CPSC could protect children by:

- prohibiting the sale of adult-size ATVs for use by children under age 16;
- requiring all ATVs to be sold with a helmet; and
- discouraging efforts to develop a new generation of ATVs for older children, the so-called "transitional ATV," which would be larger, faster and more powerful than those currently marketed for children.

In general, the CPSC should pursue a multi-pronged approach of banning the sale of ATVs for children, educating retailers and consumers, engaging in meaningful enforcement, and requiring engineering and design changes that will improve ATV safety.

In conclusion, I urge the CPSC to place substantial restrictions on children operating ATVs. If no further action occurs this year, we can expect that next year over 130 children will die and over 40,000 will be injured seriously enough on ATVs to need treatment in the emergency department. We can and must do better. With decisive action on ATVs, the CPSC can save children's lives and preserve their health.

Sincerely,

A handwritten signature in cursive script that reads "Robert Pettignano MD". The signature is written in black ink and is underlined with a single horizontal line.

Robert Pettignano, MD, FAAP, FCCM, MBA

November 9, 2005

Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, DC 20207

Regarding: Advance Notice of Proposed Rulemaking for ATVs

Dear Secretary Stevenson:

From 2000 through 2004, an average of 131 children under the age of 15 have died annually in ATV crashes. This represents about 30% of all ATV-related deaths. To compound these grave statistics, another 37,400 similarly aged children are treated in emergency rooms (ER) annually for injuries resulting from ATV crashes – accounting for about one-third of all ATV-related injuries treated in the ER. Since 2000, ATV-related injuries among adolescents have increased nearly 40%. Most children lack the strength, coordination, maturity and judgment to operate these machines in a safe manner, particularly those riding oversize ATVs where they often can't reach the handlebars and controls. Often children ride as passengers thereby upsetting the 'rider active' nature of ATV operation.

During the 3-year period 2002-2004, West Virginia had the second most reported ATV deaths in the country (93) – second only to Kentucky (106), accounting for 6% of the national total. During this time, West Virginia had a significantly higher per capita death rate than any other state in most age and gender groups. Over the past five years West Virginia has experienced 25 (2001), 29 (2002), 37 (2003), 34 (2004), and 30 (as of October 25, 2005) ATV-related deaths. While a somewhat lower proportion of our deaths are among adolescents, many of the youngsters who do die in ATV crashes are passengers (13%). Of particular note are the proportion of young females who are passengers as shown in the attached chart and list. While all of these deaths could have been prevented, most tragic are those who died in crashes where their parents, grandparents and older siblings were the driver as noted in the accompanying list.

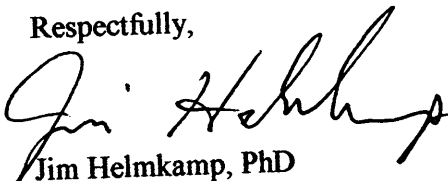
While at least 45 states currently have some level of ATV safety requirements including use of helmets, age and size restrictions, and training – these, in combination with historical CPSC efforts and manufacturer/dealer initiatives have had little impact on this growing public health epidemic. **All these injuries and deaths are preventable, but current efforts have failed miserably.** The ANPR is long overdue but a much needed step to provide evidence-based guidance to stem this continuing and unnecessary national tragedy. I applaud your efforts.

I strongly urge the CPSC to fulfill its responsibility to protect public health and safety with strong and effective rulemaking. Specifically, I recommend the Commission take the following steps to reduce the incidence of ATV deaths and injuries:

1. Prohibit, to the fullest extent of the CPSC's jurisdiction, the sale or rental of adult-sized ATVs for use by anyone under 16 years of age by all ATV dealers, manufacturers, and rental agencies operating in the U.S.
2. Require mandatory disclosure of death and injury statistics regarding ATV's, especially as related to children under the age of 16, to any prospective buyer or renter **prior to the purchase or rental of an ATV**. Disclosure should be done orally and in writing in a very straightforward and conspicuous manner. The dealer or rental agency should be required to secure a signature from the purchaser or renter on a disclosure document and maintain a copy for compliance purposes. There should be serious penalties for failure to comply with the mandatory disclosure requirement.
3. Require an industry-funded national campaign to raise public awareness of the death and injury risks and of the prohibition of children under age 16 riding adult-sized ATV's. Additionally, make mandatory that **all print, broadcast and internet-based sales and marketing materials from manufacturers, dealers, rental agencies and trade associations include disclosure of the safety risks, especially emphasizing the extreme risks to children under the age of 16**. The material should explicitly disclose the risks associated with ATV use and should be conspicuous, clearly written, and with the font size and bolding comparable to all other language included in the ad copy.
4. Consider 'graduated licensing/learner's permit' for operators over 15 who do not yet have their driver's license.
5. Prohibit passengers on ATVs that are not specifically designed to carry passengers.

Thank you for the opportunity to comment and provide suggestions regarding this important public health issue.

Respectfully,



Jim Helmkamp, PhD

Director

WVU Injury Control Research Center

**Passenger-related deaths among all ATV-related deaths in West Virginia with
Age and Gender Considerations: 1990-2005, N=294**

Position	≤ 12		13-15		≥ 16		Totals	
	Male	Female	Male	Female	Male	Female	Male	Female
Passenger	8	7	---	3	6	15	14	25
Driver	10	2	17	4	204	18	231	24

≥ 16

Male 2.9% (6 of 210)
Female 45.5% (15 of 33)
Total 8.6% (21 of 243)

13-15

Male 0.0% (0 of 17)
Female 42.9% (3 of 7)
Total 12.5% (3 of 24)

≤ 12

Male 44.4% (8 of 18)
Female 77.8% (7 of 9)
Total 55.6% (15 of 27)

Totals

Male 5.7% (14 of 245)
Female 51.0% (25 of 49)
Total 13.3% (39 of 294)

Circumstances of young adolescent (≤ 12) passenger deaths in West Virginia, N=15

Victim	Driver	Relationship of Driver to Passenger	Event
11 y/o female	21 y/o female	friend	ATV jumped out of gear, brake failure causing collision with tree
4 y/o female	male	father	Riding go cart with father near home when struck by ATV
4 y/o male	13 y/o female	sister	Lost control of borrowed ATV while going up step slope with 3 additional passengers causing overturn
10 y/o male	11 y/o male	friend	230 cc ATV flipped going up step hill on off-road trail ½ mile from home
3 y/o male	30 y/o male	?	Victims in driver's lap or on handlebars with another 3 y/o in back. ATV flipped going up hill
6 y/o female	18 y/o ?	friend	One additional 4 y/o passenger on borrowed ATV flipped on dirt road
2 y/o female	12 y/o female	friend	Two additional passengers (4 y/o female and 18 y/o male). ATV flipped going up very steep incline
2 y/o female	female	mother	Victim was wearing helmet, hit controls causing ATV to overturn crushing victim
11 y/o female	31 y/o female	mother of one of the other passengers	Three additional passengers. ATV went out of control careening down hillside
2 y/o male	male	father	Riding in yard when victim grabbed handlebar causing ATV to go over embankment
2 y/o male	18 y/o female	friend	Driver lost control and went off gravel road and hit telephone pole
5 y/o male	female	grandmother	Second passenger was victim's twin brother. ATV got into reverse gear causing it to flip backwards
8 y/o female	14 y/o female	sister	Driver lost control when ATV went off road failing to negotiate curve
10 y/o male	male	friend	Victim was wearing a helmet. ATV collided with an SUV at a blind curve on a county road
8 y/o male	23 y/o male	father	3 wheeler ATV struck steel gate at cemetery



West Virginia University
ROBERT C. BYRD HEALTH SCIENCES CENTER

APV
MPV
13/6

November 17, 2005

Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, DC 20207

Regarding: Advance Notice of Proposed Rulemaking for ATVs

Dear Secretary Stevenson:

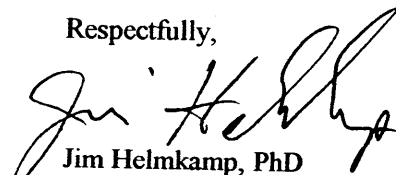
In addition to the information I sent you in my November 9, 2005 letter, I also request your consideration in supporting the development of ATV-specific simulators. While we require adolescents to undergo driver training, and in some states graduated licensing before they can legally operate an automobile or motorcycle or adult training before they obtain a commercial license to drive a truck or bus, we do not require an equivalent for ATV operators. I guess the premise is that since ATVs are not designed for road use, operators do not have to receive standardized and regimented training. Fatality statistics in my state of West Virginia indicate that about one-third of our 30 deaths per year occur on paved roads, streets, and highways. I would surmise that a similar proportion of our nonfatal ATV-related injuries occur on paved surfaces as well. I also assume that ATVs likely will not be prohibited for use by adolescents, thus let's train them to be safer in their approach and understanding of safety.

Many arcade games currently exist that present scores of risk scenarios requiring the game participant to react in certain ways depending on the variety of scenarios presented to them. If you react this way then this might be the expected outcome. However, if you do this, then the safer outcome may be this. It seems to me that with existing technology, an ATV-specific simulator could be developed and used in training scenarios for ATV operators – both for recreational and occupational applications. We have thousands of ATVs in West Virginia used for work yet as far as I can determine, there are no training opportunities for these workers. Simulators are an integral part of racecar driver and pilot training and the resulting safety records are a testament to their validity, value, and cost-effectiveness. Thus, it seems logical to apply similar technology to a growing group of millions of enthusiasts who have a much higher incidence of death and injury than drivers or pilots.

A variety of training scenarios could be developed using for example, the Web of Causation and Haddon Matrix paradigms (attached). Countless other situations and expected outcomes could be developed. Scenarios should be age-specific. Simulators might be as simple as an arcade-type kiosk or on a mobile platform that could be moved from location to location.

Thank you for the opportunity to comment and provide suggestions regarding this important safety problem.

Respectfully,


Jim Helmkamp, PhD
Director

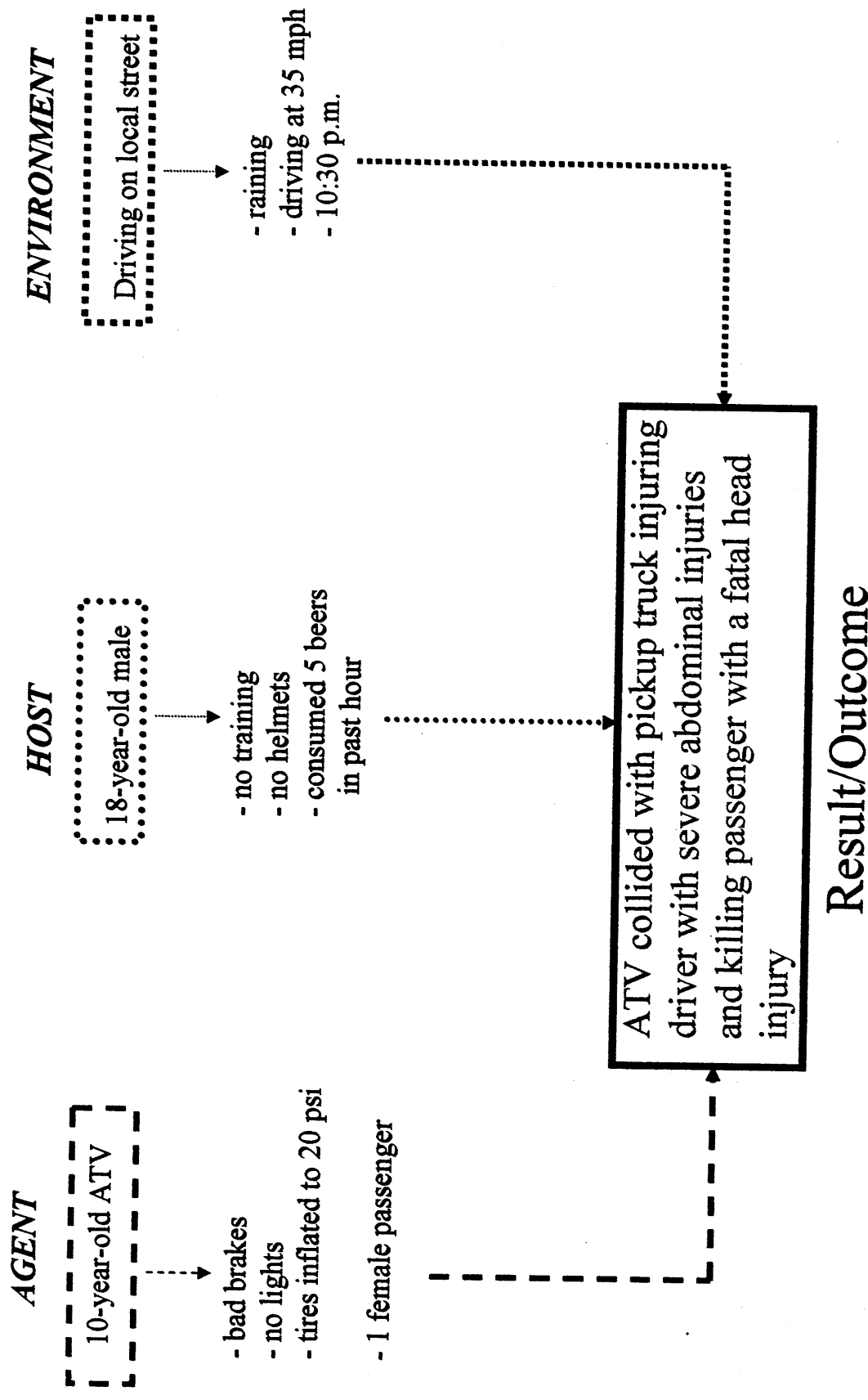
Injury Control Research Center
PO Box 9151
Morgantown, WV 26506-9151

Phone: 304-293-6682
Fax: 304-293-0265

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Web of Causation

...many variables may be related to a single effect through multiple pathways and indirect-direct mechanisms.



Haddon's Matrix (2)

	Agent	Host	Environment
Pre-Incident	10-year-old ATV - bad brakes - no lights - over-inflated tires	18-year-old male driver: - no training - drinking - no helmet	Local city street
Incident	ATV traveling at 35 mph	Female passenger Driver lost control on curve, colliding with pickup truck	Raining 10:30 pm
Post-Incident	ATV totaled Pickup truck damaged	Passenger receives fatal head injury, Driver severely injured, rehab for 6 months	Pass city ordinance outlawing ATVs on public streets and requiring helmets



DEPARTMENT of SURGERY
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November 18, 2005

Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, DC 20207

Regarding: ANPR for ATVs

Dear Secretary Stevenson:

The ATV industry's voluntary safety guidelines have clearly failed, especially in respect to children. The CPSC reports 154,700 children under 16 years old seriously injured on ATVs between 2001 and 2004. Children lack the strength, coordination, maturity and judgment to operate these machines in a safe manner. "The safe use of ATVs requires the same or greater skill, judgment, and experience as needed to operate an automobile." (American Academy of Pediatrics) Over 3,300 children killed or seriously injured PER MONTH is a preventable national tragedy which demands immediate action.

As a Pediatric Surgeon caring for these unfortunate children and their families, I urge the CPSC to fulfill its responsibility to protect public health and safety with strong and effective rulemaking. Specifically, I recommend the commission take the following steps to reduce the incidence of ATV deaths and injuries suffered by a largely unaware and unsuspecting public:

1. Prohibit, to the fullest extent of the CPSC's jurisdiction, the sale or rental of adult-sized ATVs for use by anyone under 16 years of age by ALL ATV dealers, manufacturers, and rental agencies operating in the U.S.
2. Require mandatory disclosure of death and injury statistics regarding ATV's, especially as related to children under the age of 16, to any prospective buyer or renter IN ADVANCE of the purchase or rental of an ATV. Disclosure should be done orally and in writing in a very straightforward and conspicuous manner. The dealer or rental agency should be required to secure a signature from the purchaser or renter on a disclosure document and maintain a copy for compliance testing. There should be serious penalties for failure to comply with the mandatory disclosure requirement. Compliance with this requirement must be monitored on a regular basis by the CPSC or another independent agency. Our own experience with ATV dealers in our area several years ago demonstrated

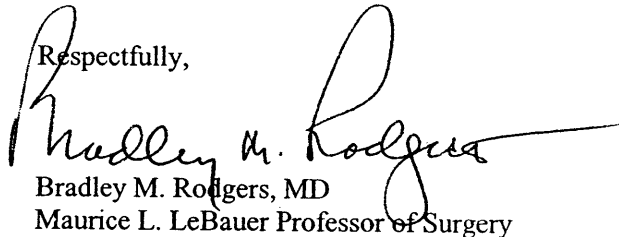
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that there was considerable variability in the compliance of the dealers with the voluntary regulations in effect at the time. (Reprint enclosed).

3. Require an industry-funded national campaign to raise public awareness of the death and injury risks and of the prohibition of children under age 16 riding adult-sized ATV's. Additionally, make mandatory that all print, broadcast and internet-based sales and marketing materials **from manufacturers, dealers, rental agencies and trade associations** include disclosure of the safety risks, especially emphasizing the extreme risks to children under the age of 16. The material should explicitly disclose the risks associated with ATV use and should be conspicuous, clearly written, and with the font size and bolding comparable to all other language included in the ad copy.
4. We urge CPSC to reject any proposal that would permit children to operate any ATV larger than 90 cc's. The use by children of any vehicle that is larger, heavier or faster than what is currently defined as an "adult-sized" ATV would be a step backward and put our children at an even greater risk of death and injury.

Thank you for the opportunity to comment and provide suggestions regarding this important matter.

Respectfully,



Bradley M. Rodgers, MD
Maurice L. LeBauer Professor of Surgery

BMR/ph

Pediatric trauma associated with all-terrain vehicles

The frequency of injuries secondary to use of all-terrain vehicles (ATV) is increasing at an alarming rate, and these injuries are usually multiple and severe. Between January 1, 1983, and February 28, 1985, 415 pediatric patients were admitted to the University of Virginia Hospital for care of injuries secondary to trauma; 66 of these patients required intensive care. Of the 415 patients, 12 were injured secondary to ATV use, and four of these required intensive care. The average age was 12 years (range 2 to 16 years), and the average hospital stay was 20 days. Injuries included five closed head injuries, two associated with a basilar skull fracture requiring intracranial pressure monitoring; five long bone fractures, two requiring open reduction and internal fixation; two small bone fractures; two splenic ruptures; two liver lacerations, one of them requiring laparotomy; and one renal hematoma. One patient has required long-term rehabilitation for neurologic deficits. Physicians and the public should be aware of the injury potential of these vehicles and should advocate legislation promoting helmet laws and high safety standards for ATV users. (J PEDIATR 1986;109:25-29)

William S. Stevens, M.D., Bradley M. Rodgers, M.D., and
Barry M. Newman, M.D.

From the Department of Surgery, University of Virginia Medical Center, Charlottesville

All-terrain vehicles are three- or four-wheel motor-powered vehicles used for off-road travel. Because of their oversized soft wheels, these vehicles are suited to a wide variety of terrains. Originally used by hunters and farmers, ATVs are increasingly used by teenagers and have been popularized as a means of recreation for the entire family. Because of certain design characteristics, ATVs are not simple to operate. However, because of the assumption by parents that the three-wheel design of the ATV is safe and stable, these vehicles are being purchased for the use of increasingly younger children. As analyzed by the Engineering Sciences Division of the U.S. Consumer Product Safety Commission, the ATV has two main characteristics that have resulted in an increasing incidence of injuries to the operator: (1) instability, in that they are prone to

overturn on an uphill or downhill grade or when hitting a bump or rut, and (2) difficulty in control on attempts to turn quickly.¹ The Pediatric Surgical Service at the University of Virginia has seen an increase in the number of admissions of patients with injuries secondary to ATV accidents. A review of these patients has been undertaken in an attempt to define the problem and to devise recommendations for the reduction of these injuries.

ATV All-terrain vehicle

METHODS

We examined the emergency room records of all patients admitted to the University of Virginia Hospital Children's Surgical Services with injuries secondary to trauma for the 26-month period between January 1, 1983, and March 1, 1985. The hospital charts of patients with injuries secondary to ATV use were abstracted for details of the accident, type of injury, hospital course, and long-term sequelae.

Submitted for publication Nov. 8, 1985; accepted March 20, 1986.

Reprint requests: Bradley M. Rodgers, M.D., Box 181, Department of Surgery, University of Virginia Medical Center, Charlottesville, VA 22908.

Table. Pediatric trauma injuries requiring hospitalization

	1982	1983	1984
ATV injuries (emergency room)	8585	27,554	66,956
Injury/1000 ATVs (emergency room)	—	21.7-22.2	36.2-37.0
Injury/1000 ATVs (hospitalization)	—	2.58-2.64	4.88-4.99

Data from Frye RE. U.S. Consumer Product Safety Commission, March 18, 1985.

RESULTS

Four hundred fifteen patients between the ages of 1 month and 18 years were admitted to the Children's Surgical Services between January 1, 1983, and March 1, 1985, for treatment of traumatic injuries, 147 (35%) of which were vehicle associated. Injuries secondary to ATV accidents were the third most common cause for admissions secondary to vehicular accidents, and were twice as common as motorcycle injuries during this interval. Twelve children (11 boys) were examined in the emergency room during this period for injuries secondary to ATV use; all 12 required admission to the hospital for further treatment. The average age of these patients was 12 years (range 2 to 16 years). The average duration of hospital stay was 20 days (range 1 to 153 days). Four (33%) of the 12 patients required admission to the Pediatric Intensive Care Unit because of the severity of their injuries.

Mechanism of injury. Six of the 12 injuries occurred while the children were riding double on an ATV; both driver and passenger were injured in these three incidents. Six injuries occurred on public roadways: ATV operators hit a moving vehicle in four cases and a parked automobile in two. One child riding on an ATV struck a second ATV operated by another child. One rider overturned the vehicle while maneuvering uphill. Three of the children lost control of the ATV and were thrown from the vehicle. One 2-year-old child was run over by a four-wheel ATV operated by an adult.

Although the speed of the vehicle was not documented in all incidents, at least one accident, in which two children were riding double when they struck a truck, was estimated to have occurred at 35 mph.

Only one operator in this group was wearing a protective helmet at the time of injury. This rider was thrown from the vehicle and sustained a fractured spleen and kidney but no head injury. Neither alcohol nor drugs were thought to be involved in any of the accidents.

Types of injury. Five children sustained concussions, two of which were associated with basilar skull fractures and

required intracranial pressure monitoring. One of these two patients had seizures at the scene of the accident and arrived at our emergency room with a Glasgow Coma Score of 4T. The other patient had a transient homonymous hemianopsia during hospitalization. All of the children with neurologic injury recovered satisfactory function, but one patient required rehabilitation for continuing neurologic deficit with decreased mental status. This patient had a brachial plexus injury and has required extensive neural grafts to the brachial plexus. He has persistent neuromuscular deficit in his right arm.

Five patients sustained long bone fractures: two were open fractures, one requiring open reduction with external fixation, and the other the insertion of an intramedullary rod. One open fracture was complicated by a radial nerve transection, which was repaired surgically. Three patients had axial skeleton fractures, including two basilar skull fractures and an L3-L4 compression fracture. There were multiple small bone fractures in the hand of one child.

Two patients sustained splenic fracture. Both were successfully treated nonoperatively. One of these patients also had a subcapsular hematoma of the kidney and a traumatic pneumatocele of the left lung, both of which resolved spontaneously. One child had a blunt injury to the pancreas and a liver laceration, and required a laparotomy because of continued bleeding.

Three children had microscopic hematuria. The intravenous pyelogram was normal in two of these children; one was noted to have a subcapsular renal hematoma on CT scan. The hematuria resolved spontaneously in all of these patients, and none required operative intervention.

All 12 patients sustained multiple abrasions and contusions. Three had lacerations sufficient to require suture repair. Seven (58%) patients had significant injuries to multiple organ systems.

DISCUSSION

All-terrain vehicles are currently designed and promoted by some manufacturers as a suitable means of recreation for children. Although most manufacturers are currently exercising some degree of restraint in targeting their advertisements to the young rider, children continue to be portrayed on television and in popular magazines riding these vehicles. The manufacturers have agreed to represent these children riding in a responsible manner with appropriate safety equipment.¹ There remains, however, considerable variability in the manner in which individual dealers counsel prospective buyers with children riders. Golladay et al.² found three of four dealers encouraging the purchase of ATVs for use by an 8-year-old child, without adequately portraying the risks of such use. A survey of the two dealerships within our community revealed that both

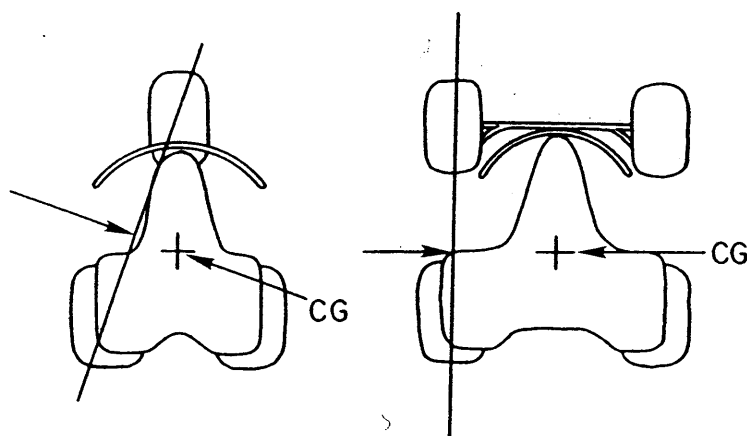


Figure. Righting moment of four-wheeled all-terrain vehicle is greater than that of three-wheeled vehicle, giving greater stability, especially in turning. CG, center of gravity.

suggested that these vehicles are appropriate for use by children younger than 10 years of age, and only one of these dealerships had safety literature prominently displayed in the vehicle showroom. The experience at the University of Virginia Medical Center, which serves a relatively rural population, indicates that ATVs are not as harmless as often perceived by the general population, particularly when operated by young children. Injuries secondary to ATV accidents, in our experience, have usually been multiple and severe.

All-terrain vehicles have become an increasingly important cause of injury in the pediatric age group as sales of these vehicles have increased. In 1980, 136,000 units were sold nationwide. Sales had risen to 650,000 units in 1984, and estimates of the 1985 sales of ATVs are 780,000 units.¹ There were 1.81 to 1.85 million ATVs in use at the end of 1984, but if current trends continue, there could be 2.48 to 2.54 million vehicles documented as in use by the end of 1985.² As the numbers of these vehicles have proliferated, so also have the rates of significant injuries (Table).

Although the frequency of injury from these vehicles is increasing at an alarming rate, the age distribution of injured operators is also changing. In 1983, 28.6% of injuries from ATV use occurred in the 5- to 14-year-old group, and 38.9% in the 15- to 24-year-old group. In 1984, 30.2% of injuries occurred in the 5- to 14-year-old group, and 43.4% in the 15- to 24-year-old group.⁴ McDonald and Stribling⁵ reported experience with 55 victims of three-wheeled ATV accidents; 57% of the severely injured patients and 58% of the patients with fractures were children younger than 16 years of age. Between 1972 and 1984, 104 deaths were reported from ATV injuries, of which 46 occurred in children younger than 16 years.

In a careful study of 169 injuries and deaths caused by ATVs, the Consumer Products Safety Commission noted several factors: (1) paved and gravel surfaces were involved in one-half of all fatal accidents; (2) helmets were not worn by approximately 40% of all victims; (3) high speed was involved in many of the fatalities, whereas low and medium speeds were involved in most of the injuries; (4) operators were riding double in 17% of the injury cases and 20% of the fatalities; (5) alcohol was a factor in 7% of the nonfatal and 15% of the fatal injuries; (6) night riding was involved more frequently in the fatal injuries; and (7) no accidents involved lateral rollover or loss of control with the four-wheeled ATVs.⁴

A review of our data and those reported by others indicates that the lack of skill and the immaturity of the individual operator are the most important elements causing these injuries. There are, however, factors inherent in the design of these vehicles that contribute to these accidents, specifically the instability of the vehicle on uphill grades or rough surfaces and the difficulty of vehicle control in sharp turns.¹ These handling characteristics result from the general design of the vehicles, particularly of the three-wheeled ATVs. In an evaluation of these vehicles by the Engineering Sciences Division of the Consumer Product Safety Commission, the problems of design were identified as the suspension, the small righting moment of the vehicle, the basic three-wheel design with its fixed back tires, and the characteristics of the brakes.⁶

The righting moment of a vehicle can be thought of as the force tending to keep the vehicle upright and to prevent rollover. This force is extended perpendicularly from the vehicle's center of gravity to a line connecting the midpoint of the front and rear tires on one side (Figure). The

righting moment of the three-wheeled vehicle is significantly less than that of the four-wheeled vehicle. This difference accounts for the absence of rollover as a significant contributory factor in four-wheeled ATV injuries. The three-wheel design consists of a front tire that pivots for steering and fixed back tires. The back tires, because they are fixed, tend to follow a straight line while the vehicle is turning. Because of this the operator must shift his weight to the outside tire during a turn, to overcome the force of the inner tire's tendency to continue the vehicle in a straight line. This shifting of weight increases the forces on the vehicle, tending to overturn it.

Most ATVs are equipped with front-wheel brakes. At moderate to high speeds in a straight line, sudden application of the brakes may lead to upending the ATV. This becomes even more likely if the brakes are applied during a turn, as the precarious weight distribution is further unbalanced by inertial forces during braking.

It is evident that ATVs are not "motorized tricycles," but are complex vehicles that require considerable coordination and skill in operation to avoid operator injury. There are several ways in which the risk of injury to the operator of an ATV may be reduced, including improvements in the design of the vehicle, stricter safety laws, and comprehensive ATV operator education.

The initial design of the ATV was developed by an independent researcher in Japan without the use of product development specifications or technical illustrations; improvements were made on a trial-and-error basis.⁷ The result has been a design that consists of an isosceles triangle with an apex of 37 degrees and foot pegs located two fifths of the way from the apex to the base of the triangle. This design could be rendered more stable by an increase in the angle of the apex, which would increase the wheelbase of the tires and the righting moment of the vehicle. Lowering the seat would lower the center of gravity of the vehicle, making it more stable. Another means of improving the design would be to limit the size of the engine available on these vehicles. Currently, the engine sizes range from 70 to 350 cc. Smaller engines would result in a slower but more stable vehicle. Despite the attractiveness of these design changes, any significant redesign of the ATV is unlikely from a commercial standpoint.

State laws can be improved to promote safety of ATV operation. As of January 1985, 13 states have minimum age requirements for operation of ATVs, with the lowest being 10 years without supervision by an adult. These restrictions, however, apply only to use of the vehicles on public land or in crossing a highway. Only six states require a motor vehicle operator license for the use of these

vehicles on public lands or to cross a highway. Only three states currently require safety education certificates for use of ATVs. Seven states have laws requiring the use of helmet for operations of an ATV on public land. An increased age limit for operators of ATVs, stricter licensing requirements, and mandatory safety equipment including helmet, gloves, and boots, would be expected to decrease the number of injuries incurred by all ATV users; but most particularly by children. Absolute prohibition of riding double should be enforced. Six (50%) of the children in our series were injured while riding double.

Perhaps the two most practical means of decreasing the rate of injury connected with ATVs are the institution of driver education programs and the enhancement of public awareness of the danger of these vehicles. Such has been the approach of the Consumer Product Safety Commission and the Specialty Vehicle Institute of America, Costa Mesa, California, in cooperation with the manufacturers and dealers of ATVs.⁸ SVIA has developed a rider training program and hopes to train 45,000 riders during 1985. This program concentrates on first-time ATV users. It includes operator safety information and stresses the use of safety equipment. Public service advertisements are being developed for ATV enthusiast magazines and television. Printed safety literature has been provided to ATV dealers for distribution and is available from SVIA for physician distribution. The ATV manufacturers have contributed to public education in a responsible manner by distributing safety literature at the dealerships and by following voluntary advertising guidelines. These guidelines have focused particularly on young drivers and have included prudence in the manner in which the operation of the vehicle is illustrated and emphasis on the use of appropriate protective gear.

A final, but important, consideration in the safe use of ATVs by those in the pediatric age group is the role of the pediatrician in dealing with this problem. With accidental injury from the use of these vehicles increasing rapidly in children, pediatricians have a responsibility to their patients to promote ATV safety. The distribution of safety information in the office and the discussion of the dangers of these vehicles with parents and patients can have an important influence on the responsible operation of these vehicles.

Trauma secondary to ATV use has already become a significant health problem in the pediatric population and is growing in magnitude. The number of emergency room visits has tripled in the past year, and if current sales estimates are accurate, will continue to grow. If the improvements discussed could be instituted, it is hoped that a reduction in the number of injuries secondary to ATV use could be effected.

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December 9, 2005

Caroline County Office

Dear Consumer Product Safety Board members:

I am interested in making all terrain vehicle educational classes mandatory for both parents and children/ teens in Maryland. In Caroline County alone last year we lost two brothers because of not following the rules. Our local police had addressed their behavior with their step dad repeatedly and still there were no guidelines set and they made a big mistake. They lost their lives.

One big issue we have is the parents are not responsible. We must find ways to make them accountable. Our police state that the parents purchase the vehicles without providing any guidance or requirements to observe rules and follow safe precautions.

I am presently working with my co-workers from Maryland Cooperative Extension and the local county public school principals to offer an educational class for all middle school youth in the county. We plan to teach the teens as much about safe practices as possible.

If a teen is found to be negligent in the county on an ATV by the police they will be assigned to teen court and required to come to training and participate in community service. It is a small way to work with educating youth.

It appears that Maryland needs to look at the laws and regulations from neighboring states. We are considering lobbying our legislators too in order to seek out laws and find ways to better enforce safety needs.

Thanks for your concerns and please call me if I can be of any help in your planning. I am also working with the local child injury/death board to work on ways to make ATV riding safer in our county.

My phone number is 410 479-4030, and my email is : spahlman@umd.edu.

Sincerely,

Sharon Pahlman
Sharon Pahlman

Extension Educator, 4-H
Youth Development

(410) 479-4030 ■ FAX (410) 479-4042 ■ DK10@mail.umd.edu

207 S. THIRD STREET ■ DENTON, MARYLAND 21629

LOCAL GOVERNMENTS ■ U.S. DEPARTMENT OF AGRICULTURE COOPERATING

EQUAL OPPORTUNITY PROGRAMS

**BEFORE THE
UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION**

**JOINT COMMENTS OF
AMERICAN HONDA MOTOR CO., INC.,
AMERICAN SUZUKI MOTOR CORPORATION,
ARCTIC CAT INC.,
BOMBARDIER RECREATIONAL PRODUCTS INC.,
DEERE & COMPANY,
KAWASAKI MOTORS CORP., U.S.A.,
POLARIS INDUSTRIES INC., and
YAMAHA MOTOR CORPORATION, U.S.A.**

VOLUME I

**All Terrain Vehicles;
Advance Notice of Proposed Rulemaking;
Request for Comments and Information**

ATV ANPR

70 Fed. Reg. 60,031 (Oct. 14, 2005)

December 13, 2005

**BEFORE THE
UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION**

**JOINT COMMENTS OF
AMERICAN HONDA MOTOR CO., INC.,
AMERICAN SUZUKI MOTOR CORPORATION,
ARCTIC CAT INC.,
BOMBARDIER RECREATIONAL PRODUCTS INC.,
DEERE & COMPANY,
KAWASAKI MOTORS CORP., U.S.A.,
POLARIS INDUSTRIES INC., and
YAMAHA MOTOR CORPORATION, U.S.A.**

VOLUME I

**All Terrain Vehicles;
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Request for Comments and Information**

ATV ANPR

70 Fed. Reg. 60,031 (Oct. 14, 2005)

December 13, 2005

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I. INTRODUCTION

The eight major distributors of all terrain vehicles (“ATVs”)¹ appreciate the opportunity to comment on the U.S. Consumer Product Safety Commission’s (“CPSC” or the “Commission”) advance notice of proposed rulemaking (“ANPR”) requesting comments on the risks of injury associated with ATVs as well as actions, both regulatory and non-regulatory, that could be taken to reduce ATV-related deaths and injuries. 70 Fed. Reg. 60,031 (Oct. 14, 2005).

II. RISK OF ATV-RELATED INJURY OR FATALITY

The ANPR suggests, based upon statements in the 2001 CPSC Staff ATV Risk Study comparing data from 1997 and 2001, that ATV-related injury and fatality rates are increasing. *Id.* at 60,033-34. These comparisons are both outdated and inappropriate. In fact, the most recent CPSC data show that ATV-related injury and fatality rates on a per-vehicle-in-use basis have been stable for ATV riders generally and have declined for children under 16 since the Consent Decrees expired in 1998. Indeed, the ANPR itself specifically acknowledges that the estimated risk of injury per 10,000 four-wheel ATVs in use remained essentially the same in 2004 as compared to 2003. *Id.* at 60,031. In addition, these rates are nowhere near the pre-Consent Decree levels that caused the Commission concern in 1987.

As Dr. Edward Heiden points out in a report attached as Appendix A, the NEISS system from which the ATV injury estimates are drawn underwent a significant revision of its sample of reporting hospital emergency rooms in 1997. This revision resulted in an unexplained larger increase in estimated injuries from 1997 to 1998 than in any year since for a number of consumer products, including ATVs. When ATV injury estimates are evaluated beginning in 1998, the

¹ The eight major ATV distributors are American Honda Motor Co., Inc., American Suzuki Motor Corporation, Arctic Cat Inc., Bombardier Recreational Products Inc., Deere & Company, Kawasaki Motors Corp., U.S.A., Polaris Industries Inc., and Yamaha Motor Corporation, U.S.A. (the “ATV Companies”).

first year that the full compliment of NEISS hospitals in the new reporting sample was available (and, coincidentally, the year the ATV Consent Decrees expired), it is clear that the injury risk associated with the use of ATVs has been essentially stable for the past seven years.

The CPSC 2004 Annual Report of ATV deaths and injuries, which represents the most current data, shows that the risk of ATV-related injury has fluctuated between 185 and 201 injuries per 10,000 four wheel vehicles in use since 1998 and actually decreased slightly since 2001. In fact, the 2004 rate of 188 injuries per 10,000 four wheel ATVs in use is lower than for any year since 1998.

In addition, Dr. Heiden's analysis of data from the CPSC 2004 Annual Report indicates that the recent trend in injury risk has improved for children under 16 relative to the general ATV-riding population as a whole. This analysis shows that in 2004 there were an estimated 60 ATV-related injuries to children under 16 per 10,000 four wheel ATVs in use. This represents a 14 percent decrease from the 67 injuries to children under 16 per 10,000 vehicles in 1998 when the Consent Decrees expired.

The CPSC 2004 Annual Report points out that there was also a significant change in the methodology for estimating ATV-related fatalities beginning in 1999 which led to greater reporting of such fatalities that occurred on public roads. It is therefore only appropriate to examine recent trends in ATV-related fatality rates using data collected with this current, more comprehensive statistical methodology. An examination of the fatality estimates for the four-year period from 1999 through 2003 (the estimates for 2004 are not yet available) shows that overall ATV risk has been declining on balance since 1999 – from 1.4 ATV-related fatalities per 10,000 four wheel vehicles in use to 1.1 fatalities per 10,000 vehicles in use during 2002 and 2003, the most recent years for which adequate data are available.

An examination of the data also shows that the estimated ATV-related fatality rate for children under 16 likewise declined during this four-year period – from 0.32 estimated fatalities per 10,000 four wheel ATVs in use in 1999 to 0.28 fatalities per 10,000 vehicles in use in 2003. This represents approximately a 10 percent drop in risk on a per-vehicle basis over that four-year period for children under 16.

It is important to recognize that the great majority of ATV accidents involve behavior that is clearly and consistently warned against. Based on a review of hundreds of CPSC in-depth injury (“IDI”) reports of ATV-related fatalities during 1997-2002, Dr. Heiden found that nearly 92 percent involved at least one type of warned against behavior such as failure to wear a helmet, riding on a public road, drinking alcohol, passenger carrying on a single rider vehicle, excessive speed or using drugs. Two or more warned against behaviors were reported in more than half of the fatalities reviewed. The CPSC Briefing Package on Petition CP 02-4/HP 02-1 (February 2005) (“CPSC Briefing Package”) contains an additional analysis showing that 93 percent of fatalities involving children under 16 occurred on adult-size ATVs, and 72 percent involved children not wearing helmets. CPSC Briefing Package at 106, 108. These findings clearly point to where future risk reduction efforts through training, state legislation and information/communication programs on ATV safety might best be focused.

III. ANSI/SVIA VOLUNTARY STANDARD

Working through the Specialty Vehicle Institute of America (“SVIA”), the ATV Companies, CPSC and other interested parties initially developed and adopted a voluntary standard for 4-wheel ATVs in 1989. The standard was approved and issued by the American National Standards Institute (“ANSI”) in 1990. The standard, ANSI/SVIA-1-2001, Four Wheel All-Terrain Vehicles – Equipment, Configuration and Performance, was re-issued in 2001 with

revisions made through a canvass process conducted by the SVIA Technical Advisory Panel following ANSI policies and procedures.

The current ANSI/SVIA standard sets forth specifications for equipment and configuration aspects of ATVs, including: mechanical suspension; throttle, clutch and gearshift controls; engine and fuel cutoff devices; handlebars; lighting; tires; and operator foot environment. The standard also establishes performance requirements for service and parking brakes, and for pitch stability of the vehicle. In addition, the standard specifies requirements for youth ATVs regarding maximum unrestricted speed capability and speed limiting devices.

The lighting specifications prohibit headlamps and tail lamps on youth ATVs in order to discourage riding by young operators at night or in low visibility conditions when proper adult supervision would also be difficult. The operator foot environment provision is intended to reduce the possibility of inadvertent contact between the operator's boot and the ground immediately in front of the rear tire, or the rear tire itself. The service brake requirements are intended to ensure that ATVs are equipped with brake systems that are adequate for stopping the vehicle. The parking brake requirements are similarly intended to ensure that the mechanism is adequate to prevent rolling movement of the ATV when it is parked and left unattended.

The youth ATV requirement for an adjustable speed limiter is intended to provide a means by which the supervising adult can limit the ATV's maximum speed capability according to the skill and experience of the young rider. Y-12 ATVs are to be delivered to purchasers with the speed limiter set at 15 miles per hour, and have an unrestricted maximum speed no higher than 30 miles per hour. Y-6 vehicles are to be delivered with the limiter device set at 10 miles per hour, and have an unrestricted maximum speed of 15 miles per hour or less.

All ATVs distributed by the ATV Companies comply with applicable provisions of the ANSI/SVIA-1-2001 standard. As explained more fully in Section VI below, this is not the case for many ATVs distributed by new entrants to the U.S. market.

SVIA recently advised ANSI that consistent with ANSI's policies and procedures, the SVIA Technical Advisory Panel is beginning the process of reviewing the ANSI/SVIA-1-2001 standard for possible updating and revision using the canvass method. Topics that have been identified by CPSC and other interested parties for consideration during this process include the development and addition of requirements for vehicle warning labels and instructions, for training for new purchasers, and for new "transitional" youth model ATVs beyond the current Y-12 models.

IV. ATV SAFETY ACTION PLANS

Upon expiration of the Federal Consent Decrees ("Consent Decrees") in April 1998, the ATV Companies that were parties to the action and Arctic Cat agreed to maintain all of the key elements of the Consent Decrees relating to child safety and implemented additional programs designed to deter the use of adult-size ATVs by children. The Commission officially commended the ATV Companies for these safety efforts, 63 Fed. Reg. 67,861 (Dec. 9, 1998),² and has requested and received regular reports from the ATV Companies about the programs. Although Bombardier and Deere & Company entered the U.S. market for ATVs after the Consent Decrees had expired, each company voluntarily undertook substantially the same safety programs and related obligations. The Commission has requested other new entrants to do the same; virtually all others have refused to date. *See* CPSC Briefing Package at 18-19.

² This commendation notice did not include American Honda Motor Co., Inc.

1. Continuation Of Consent Decree Programs

Each ATV Company committed, in writing and on a voluntary basis, to continue all of the principal Consent Decree programs, including the ones relating to children's safety. *Id.* These programs – or voluntary “Action Plans” – are summarized below.

a. Age Recommendations

Consistent with requirements originally established by CPSC as part of the Consent Decrees, each ATV Company has committed not to recommend, market, or sell adult-size ATVs (*i.e.*, with engine sizes greater than 90 ccs) to or for use by persons under 16. Each company has also committed to recommend, market, and sell only youth model ATVs with engine sizes less than 70 ccs for use by children aged six or older and 90 ccs or less for use by children aged 12 or older, with adult supervision. These youth model ATVs are equipped with speed limiters and other features specifically designed for children at least 6 and 12 years of age, respectively.

The ATV Companies have made extensive efforts to warn the public against the use of adult-size ATVs by children. These efforts have included several nationwide public safety campaigns, involving television and radio advertisements, and the distribution of thousands of brochures, posters, CD-ROMs, and classroom materials to public schools and libraries around the country. There is no evidence that the public is generally uninformed of the risks associated with the use of adult-size ATVs by children.

Moreover, upon entering a retail dealership, all prospective ATV purchasers are given numerous warnings against the use of adult-size ATVs by children. These include on-product labels, hang tags, safety videos, an “ATV safety alert,” and other materials. There is no evidence that any actual ATV purchasers are uninformed of the risks associated with the use of adult-size ATVs by children.

b. Dealer Sales Directives And Undercover Monitoring Programs

The ATV Companies have also maintained age recommendation directives that prohibit their dealers from recommending or knowingly selling an adult-size ATV for use by a child under age 16. These directives are enforced through regular dealer monitoring conducted by the Commission and the ATV Companies. A failure to comply with the directives can result, and has resulted, in termination of the dealership agreement. In light of these potential consequences, the vast majority of dealers monitored over the past five years were found to be in compliance with the age recommendation directives. Dealers reported to be in violation of the directives were required to participate in additional training and enforcement programs, and were subject to termination of their dealership agreement upon a second violation. Virtually all dealers who failed initial investigations were found to be in compliance during subsequent inspections.

Random and targeted investigations of dealers are conducted each year throughout the United States to monitor for compliance with the age recommendation directives. "Secret shoppers" attempt to purchase adult-size ATVs for use by children under 16, and report any violations of the age recommendation directives by dealers. These investigations are conducted both by CPSC and the ATV Companies. Dealers found to be in violation of the age recommendation directives are subject to disciplinary measures, including additional training, follow-up inspections, and potential termination of their franchise agreements.

The dealer monitoring programs were initiated in 1990 and have continued uninterrupted to date. The results of these efforts are reported annually to the Commission. Average industry compliance rates have ranged from 72 to 90 percent.

c. ATV Labels And Hang Tags

Each ATV Company has continued to use substantially the same warning labels on all new vehicles. These include general warning labels approved by the Commission, as well as labels specifically warning against the use of ATVs by children under the recommended ages. Separate labels are also used to warn against operation of single-rider vehicles with a passenger.

In addition, a “hang tag” containing the age recommendations and other safety information is supplied for each new ATV. These hang tags are displayed on each vehicle at the point-of-purchase, and the consumer must physically remove them after the purchase.

d. Owner’s Manuals

The ATV Companies have continued to include in their ATV owner’s manuals all of the substantive safety information required under the Consent Decrees. This includes multiple warnings against the use of vehicles by underage operators, as well as instructions for proper and safe operation.

e. Safety Alerts

The ATV Companies continue to provide each ATV purchaser with a “safety alert” at the point-of-purchase. The safety alert reiterates the principal warnings about safe and proper ATV use, including the age recommendations. Information concerning the estimated number of fatalities and injuries associated with ATVs is also provided, and is regularly updated by the ATV Companies.

f. Safety Videos

Every new ATV comes with a safety video for purchasers to review at home. Shortly after expiration of the Consent Decrees, the ATV Companies produced an updated version of the safety video that contained all of the substantive safety messages from the earlier Consent

Decree version. The age recommendations are given prominent treatment in the video, providing consumers with further exposure to this information.

g. Advertising

Consistent with the guidelines established under the Consent Decrees, each ATV Company's advertisements and promotional materials include the age recommendations and other safety messages. The ATV Companies have also continued to promote dealer compliance with these guidelines, including conditioning cooperative (*i.e.*, distributor-subsidized) advertising on such compliance.

h. Training

The ATV Companies have maintained their respective training programs post-Consent Decree. Most of the ATV Companies offer free, nationwide hands-on training under the direction of the ATV Safety Institute ("ASI"). Monetary or other incentives are offered to promote the training program. Children aged 6 to 11 and 12 to 15 are encouraged to participate in the course, and are only trained on youth-size models as designated by the Commission in the Consent Decrees (*i.e.*, engine sizes less than 70 ccs and 90 ccs or less, respectively). The training curriculum includes an emphasis on the age recommendations for ATVs.

i. ATV Hotline

SVIA continues to maintain a toll-free, twenty-four hour ATV safety hotline for its member companies. The ATV hotline provides safety and training information, including the age recommendations for ATVs. The ATV hotline is promoted in the member companies' promotional brochures and print advertisements.

2. Post-Consent Decree Information And Education Efforts

In addition to maintaining all of the programs described above, the ATV Companies have developed and implemented other information and education efforts since the Consent Decrees

expired. These efforts have focused specifically on deterring children from operating adult-size ATVs.

Most recently, in Fall 2004, the ATV Companies sponsored an innovative ATV safety education program, entitled "*Protect Yourself. Protect the Planet.*" The program was developed in conjunction with *Weekly Reader* for use in middle and senior high schools with over 20,000 sets of program materials distributed to schools in targeted geographic areas with high ATV use. The program is described in detail in Section VII.

In addition, as members of SVIA, the ATV Companies sponsor a wide range of public information and education programs designed to promote safe and responsible ATV use. These programs are described in the separate comments submitted by SVIA.

The continuing efforts of the ATV Companies to promote children's safety have been undertaken in close cooperation with CPSC and are virtually unprecedented. No other private industry has implemented such far-reaching, pervasive approaches to deter children from using products intended for adults. Purchasers and users of ATVs continue to be given multiple warnings, in a wide range of complementary ways, that children under 16 should not operate adult-size ATVs.

3. **No Other Industry Provides Such Comprehensive Safety Information To Consumers.**

The ATV Action Plans and post-Consent Decree education efforts of the ATV Companies constitute comprehensive, mutually reinforcing systems for providing prospective ATV purchasers with safety and training information. These efforts are unrivaled. A typical consumer will be exposed to the ATV safety messages multiple times, in several complementary forms, before, during, and after purchasing an ATV.

Safety messages are contained in all ATV advertisements and promotional materials. A prospective customer receives these messages as part of becoming initially aware of the products through radio, television, newspaper and magazine advertising. A host of safety information is also provided at all authorized dealerships, ranging from dealer instructions and warnings, on-product hang tags, safety brochures, and videotapes. Further information is provided as a customer proceeds through the sale process in the form of sales documents such as a safety alert with injury statistics and execution of a rider training certificate with safety warnings and instructions. In addition, a detailed owner's manual and safety video which accompany the vehicle provide the purchaser with post-sale reinforcement of these warnings and instructions regarding safe and responsible ATV operation.

Through SVIA, the ATV Companies attempt to reach new purchasers after they leave the dealerships, to enroll them in free hands-on training and to review basic product safety information. The training course itself offers four to six hours of "hands-on" instruction in safe and proper operation of the vehicles. Moreover, each time a purchaser mounts an ATV (whether purchased new or used), permanent on-product labels display key safety warnings and instructions, both in a CPSC-approved "main" safety label and in labels specifically addressing proper age and passenger recommendations. And, through programs like *Weekly Reader's "Protect Yourself. Protect the Planet,"* the ATV Companies have provided effective educational materials to reinforce the key ATV safety messages for ATV-owning households and other members of the public who might operate the vehicles.

V. SAFETY ISSUES PRESENTED BY NEW ENTRANTS

There has been a growing volume of imports of ATVs into the United States from new entrants to the ATV market. In 2004, those imports were estimated to have reached 200,000

units, or over 20% of the U.S. ATV market. These imports are predominantly from manufacturers in China.

The ATV Companies have submitted comprehensive information about these “new entrants” to CPSC, including submissions on March 16, 2001, June 30, 2004, and September 2005. As demonstrated in these submissions, many of the new entrant ATV imports do not appear to comply with key elements of the ANSI/SVIA standard. For example, the advertised maximum speeds for many imported youth-sized vehicles are far higher than those specified in the ANSI/SVIA voluntary standard. Visual inspection of many new entrant imports also shows that they do not provide adequate footwell environments, as specified in the ANSI/SVIA standard, to protect the operator’s foot from being caught in the back wheels of the vehicle, which can result in an accident and serious injury. There are additional suggestions of non-compliance with the performance requirements of the ANSI/SVIA standard, in such representative areas as braking and pitch stability. The ANPR acknowledges that CPSC has not yet conducted studies to determine the level of compliance with provisions of the ANSI/SVIA standard by new entrants. 70 Fed. Reg. at 60,034. Testing of these imports for compliance with key provisions of the ANSI/SVIA standard should be established as an immediate priority for CPSC.

In addition, the ATV Companies are unaware of any new entrant manufacturer that has provided the CPSC with a voluntary Action Plan of any kind, let alone one that contains substantially the same safety initiatives, training and dealer monitoring programs, and ATV age-related sales restrictions implemented by the ATV Companies. The refusal of these new entrants to implement ATV safety and training programs substantially similar to those specified in the current Action Plans stands in stark contrast to the ATV companies that have entered the U.S.

ATV market since the Consent Decrees were adopted, such as Arctic Cat, Bombardier, and most recently (2004) Deere & Company. The adoption of Action Plans by these three companies demonstrates that there is no market impediment or other justification for other new entrants not to adopt and implement substantially the same safety and training programs. Importers of these products are selling them on the Internet or through non-dealer outlets such as lawn mower shops and automobile parts stores, with no apparent safety, training, or product support programs, and without undertaking any effort to assure that adult-size ATVs are not marketed or sold for use by children under 16. In short, there is no indication that new entrant ATV manufacturers are inclined voluntarily to comply with the ANSI/SVIA standard or to implement comparable Action Plans.

Because ATV-related accidents and injuries are reported in the aggregate, it is impossible to determine the number of such incidents involving new entrant ATVs. Recent IDIs and incident reports involving new entrant ATVs were obtained from the Commission, pursuant to the Freedom of Information Act. (Copies of these reports are attached as Appendix B.) The reported incidents involve mechanical and performance problems indicative of non-compliance with the ANSI/ATV standard, as well as reports of the kind of rider behavior and misuse that are warned-against and addressed in the training and safety programs offered by the ATV Companies.

VI. TECHNICAL ISSUES³

The ATV Companies engaged Dynamic Research Inc. of Torrance, California (“DRI”) to consider and respond to a number of requests for technical information raised in the ANPR. A report from DRI addressing these requests is attached as Appendix C. The report reflects the

³ Arctic Cat Inc. does not join in this section of the joint comments.

results of a review and critique of relevant literature, identifies clarifying points and assumptions, and points out various complicating factors which must be recognized to avoid inappropriate technical approaches and erroneous conclusions.

VII. ATV RIDER EDUCATION

In addition to maintaining all of the Action Plan programs described above, the ATV Companies have recently sponsored an innovative ATV safety education program, entitled "*Protect Yourself. Protect the Planet.*" The program was developed in conjunction with *Weekly Reader* for use in middle and senior high schools. During Fall 2004, over 20,000 sets of program materials were distributed to schools in targeted geographic areas with high ATV use. The materials include a teacher's guide, a student activity booklet, a parent take-home letter, and a classroom poster. The program materials were designed for use in the classroom, by community and youth organizations, and over the Internet.

"*Protect Yourself. Protect the Planet.*" incorporates the ATV Companies' key safety messages, including following the age recommendations for choosing the proper size ATV, wearing the proper safety equipment and riding gear, not allowing passengers on single-operator ATVs, and always riding with adult supervision when under 16. The program also educates participants on how they can be environmentally-responsible ATV riders, by always operating on trails that have been developed in an eco-friendly manner, respecting other trail users and wildlife, not trespassing or littering, and obeying local noise ordinances.

Weekly Reader estimates that more than 52,000 teachers used the program, and that the "*Protect Yourself. Protect the Planet*" materials were seen by 2.5 million students and millions of their parents. The response from school teachers and administrators has been uniformly positive. The following are a few samples of teacher comments on the program:

- “The ATV safety program was very appropriate for my group. It started many conversations, experiences & comments. Most of my students have 4 wheelers – we are in a extremely rural county in Western Kentucky!” Morganfield, KY
- “Kids in this area are avid riders of ATVs, so this was great information for them to have. We’ve had some accidents on ATVs so reminding students of the hazards is very important. Thank you for sending this information out.” Stoneboro, PA
- “I found the materials accurate, attractive and well organized. More importantly, the students found the information relevant. It generated great discussion and persuasive essays on their take on the information presented. We used the material on parent night and distributed the supplementary information. I thought it was great!” Barnwell, SC
- “Great information and lay-outs. High interest for my students and very valuable. Please keep me on your list to receive future materials!” Fairbanks, AK

A copy of a summary report from *Weekly Reader* on the success of the program is attached as Appendix D.

VIII. STATE ATV LEGISLATION

The continuing efforts of the ATV Companies through SVIA have been instrumental in the enactment of state laws that prohibit the use of adult-size ATVs by children and establish other important safety requirements. For example, on August 18, 2005, Governor Michael Easley of North Carolina signed into law a comprehensive ATV safety bill that took effect on December 1, 2005. North Carolina had previously been one of only six states that had no ATV laws in place. SVIA worked closely with the North Carolina Child Safety Task Force to help craft the legislation and advocate its passage. These efforts included testifying before a Senate Committee and providing comments on the bill to legislators.

The North Carolina law incorporates all elements of the SVIA model state ATV legislation, with a few modifications. Major provisions include prohibiting the sale of ATVs greater than 90 cc for use by children under 16 and prohibiting parents from permitting children under 16 to operate such ATVs. The law prohibits carrying passengers unless the ATV is

specifically designed for them and requires every ATV operator to wear a helmet and eye protection. It also prohibits ATV use on public roads or while under the influence of alcohol. Finally, effective October 1, 2006, the law requires every ATV operator born on or after January 1, 1990 to possess a safety certificate indicating successful completion of an ATV safety course sponsored or approved by SVIA's affiliate ASI.

On April 7, 2005, Governor Bill Richardson of New Mexico signed an ATV bill requiring children under the age of 18 to wear helmets and safety goggles and to complete a safety training course. The law will also require (1) that an adult be present to supervise a rider under the age of 18, unless that rider has a motorcycle license, instructional permit or provisional driver's license; and (2) that a rider 10 and under must be on an appropriate-size ATV.

In January 2004, West Virginia passed its first ATV safety legislation after almost ten years of lobbying by SVIA. The ATV legislation requires that all riders under age 18 must wear a helmet and complete an ATV rider awareness course. The legislation also prohibits (1) the carrying of passengers under age 18 unless certain requirements are met; and (2) the use of ATVs on certain roads. SVIA is continuing to support stronger ATV safety legislation in West Virginia.

The CPSC's actions focusing attention on the need for such legislation during regional ATV hearings in Morgantown and Albuquerque in 2003 greatly assisted the ultimately successful efforts of SVIA and other supporters in obtaining enactment of these laws in New Mexico and West Virginia.

SVIA is also working in Florida, Mississippi, South Carolina, and Washington to support introduction and state enactment of comprehensive legislation regulating ATV use.

There is no question that adoption and effective enforcement of state age restrictions on ATV usage can significantly reduce the number of injuries and fatalities involving children. For example, Dr. Heiden conducted an updated analysis of the change that occurred in the proportion of ATV-associated fatalities involving children in three states -- Kentucky, New Jersey and Texas -- that enacted legislation to regulate the use of ATVs by children under the age of 16. The Kentucky law prohibits operation of an ATV on public lands by a child under 16 years of age. The percentage of ATV-related fatalities sustained by riders under 16 declined from 55 percent before the law to 19 percent after its enactment. New Jersey prohibited both operation of an ATV on public lands by a person under 14 and operation of an ATV over 90cc on public lands by a person under 16. The fraction of ATV-related fatalities involving children under 14 declined from 19 percent to 4 percent, and for riders under 16 decreased from 31 percent to 12 percent. The law adopted in Texas requires adult supervision of all ATV operators under the age of 14. The portion of ATV-related fatalities involving riders under 14 declined from 41 percent to 22 percent. See Appendix A at 10 and Exhibit 5.

IX. HELMET USE ON ATVs

Analyses by Dr. Heiden of CPSC fatality and injury databases show that head injuries represented 56 percent of all reported fatalities and 23 percent of injuries requiring hospitalization. For all cases since 1999 in the CPSC fatality database where helmet-wearing status was known, and a head injury was reported, 87 percent of the decedents were not wearing helmets. In other words, nearly half of all ATV-related fatalities since 1999 have involved riders not wearing helmets who suffered head injuries. For hospitalized cases in the CPSC 2001 injury survey where helmet-wearing status was known and a head injury occurred, 83 percent of the injured parties were not wearing helmets. This means that 19 percent of all the hospitalized

injury cases involved a head injury to a rider not wearing a helmet. See Appendix A at Exhibit 4.

Dr. Heiden's research suggests that between 42 and 64 percent of fatalities and hospitalized injuries involving the head—which represent the most severe ATV-related injuries—could have been averted by helmet use in cases where one was not being worn. In addition, research on state seat belt laws indicates that helmet use can be increased as much as 40 percent through stronger and more consistently enforced state law requirements. It should be noted that this estimate of a potential 40 percent increase in helmet use reflects solely increased state law compliance, and does not include any other possible safety initiatives. It is important to note that no federal action by the Commission can substitute for the state police powers that would be the basis for stronger and more consistently enforced state law requirements.

X. TRANSITIONAL ATV CATEGORY GEARED TO LARGER CHILDREN AND SMALL ADULTS

The ATV Companies requested Applied Safety and Ergonomics, Inc. of Ann Arbor, Michigan ("ASE") to consider youth model ATV issues identified in the ANPR, including the possibility of a transitional ATV geared to larger children and/or small adults. A copy of a preliminary report from ASE addressing these issues is attached as Appendix E.

It is the view of the ATV Companies that offering a transitional category of ATVs for larger children and small adults would be facilitated by developing and adding provisions to the ANSI/SVIA standard specifying requirements for such vehicles, as is currently the case for Y-6 and Y-12 ATVs. In addition, it would require revision of the voluntary Action Plans on file with CPSC which currently prohibit the ATV Companies from recommending any ATV with engine size larger than 90cc for use by a person under 16 years of age.

XI. REGULATORY ALTERNATIVES

The ATV Companies believe that their adherence to the ANSI/SVIA standard and implementation of the ATV Action Plans filed with CPSC have been effective in addressing the issue of ATV safety. As noted above, the rate of ATV-related injuries has not increased since the Consent Decrees expired in 1998, and the ATV-related fatality rate has declined since 1999. These rates are far below the levels experienced in the mid-1980s before the Consent Decrees were adopted. The ATV Companies, through SVIA, are also moving to consider revisions to the ANSI/SVIA standard, and are continuing to support state enactment of comprehensive legislation regulating ATV use as the most promising approach to reduce ATV injuries and fatalities.

The ATV Companies are very concerned, however, that the established standards and safety programs and the progress already made are being undermined by an ever increasing number of ATVs from new entrants to the U.S. market who do not comply with the ANSI/SVIA standard or provide the important safety programs specified in the current ATV Action Plans. This development has resulted in an untenable situation with respect to ATV safety, where the ATV Companies offer products which meet the ANSI/SVIA standard and come with free hands-on training and other key safety programs while increasing numbers of new entrants offer ATVs that provide none of these safety benefits to consumers.

This confuses dealers who do not understand why some ATVs they sell come with free training, maximum speed limitations, and age recommendations that are strongly enforced while other ATVs of the same size do not. It also confuses potential purchasers who may not understand or appreciate the difference. Realistically, the increasing number of such new entrant ATVs cannot help but undercut the continuing viability of the ANSI/SVIA standard and the current ATV safety Action Plans.

The ATV Companies therefore urge CPSC to take regulatory action under Section 7(b) of the Consumer Product Safety Act (“CPSA”), 15 U.S.C. Section 2056(b), to rely on the ANSI/SVIA –1– 2001 voluntary standard. This reliance should encompass revisions to the ANSI/SVIA standard that result from the recently initiated standard review and canvass process.

In the interim before such regulatory action is completed, CPSC should pursue corrective actions under Section 15 of the CPSA, 15 U.S.C. Section 2064, against new entrants who distribute ATVs that do not meet key provisions of the ANSI/SVIA standard, such as the foot environment specifications or the maximum speed restrictions for youth models. In this connection, the CPSC staff should proceed under Section 5(b) of the CPSA, 15 U.S.C. Section 2054(b), to conduct testing of new entrant ATVs to determine empirically whether they comply with these and other important provisions of the ANSI/SVIA standard. CPSC should also pursue corrective actions against new entrants who do not offer or implement key Action Plan safety programs, such as articulation and enforcement of age recommendations or use of approved warning labels and instructions, and the offering of free hands-on training.

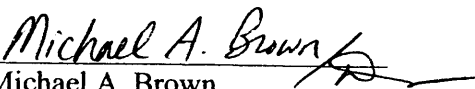
In addition, CPSC should join the ATV Companies and other interested parties in actively supporting enactment of comprehensive ATV safety legislation in states where it is under consideration. More specifically, CPSC should use its authority under Section 5(a)(1) of the CPSA, 15 U.S.C Section 2054(a)(1) to provide relevant state officials who are considering the matter with data and information showing that the causes of ATV-related injuries and fatalities involve warned against behaviors which can be best addressed by state legislation regulating ATV use.

XII. CONCLUSION

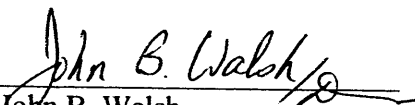
In cooperation with the Commission, the ATV Companies have taken unprecedented steps as private companies to promote the safe and responsible use of their products. The ATV Companies will continue to comply with the ANSI/SVIA standard and to fulfill their Action Plan undertakings to implement key programs to promote ATV safety. CPSC should take the necessary actions to require all other ATV manufacturers and distributors to do the same.

The Commission should also recognize, as the ATV Companies have long contended, that state regulation of ATV use, along with education and parental supervision, is the most promising approach to further enhancing ATV safety. The ATV Companies urge the Commission to make renewed efforts, in partnership with the ATV industry and other interested parties, to actively encourage and support the enactment of state laws regulating the use of ATVs.

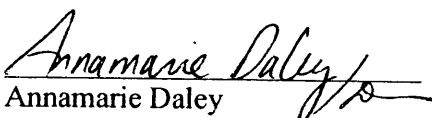
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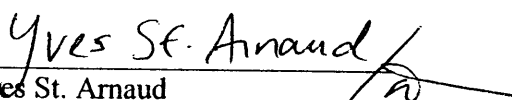
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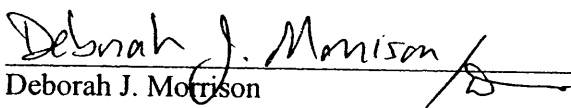
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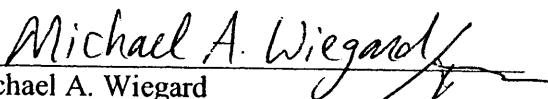
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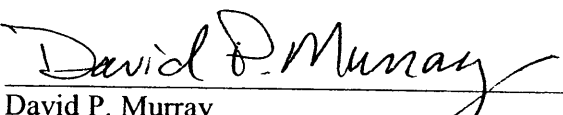
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